

**RULES
OF
TENNESSEE BOARD OF DENTISTRY**

**CHAPTER 0460-1
GENERAL RULES**

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0460-1-.01 DEFINITIONS. As used in Chapters 1 through 5 of Rule 0460, the following terms and acronyms shall have the following meanings ascribed to them:

- (1) Associated Structures - Any structures grouped by some common factor. Structures can be associated with the oral cavity and/or maxillofacial area by anatomic and/or functional factors (e.g., the oral cavity and maxillofacial area are associated with the major and minor muscles of mastication and all of their attachments; the oral cavity and maxillofacial area are associated with the oral pharynx, nasal pharynx and the airway including the trachea). All structures adjacent, attached, or contiguous with the oral cavity and/or maxillofacial area are associated structures (e.g., the oral cavity and maxillofacial area are associated with the head and neck, including the face and its components orbital, nasal, aural, etc.).
- (2) Board - The Tennessee Board of Dentistry.
- (3) Board Administrative Office - The office of the Unit Director assigned to the Tennessee Board of Dentistry.
- (4) Certified Dental Assistant - A designation for an individual who has obtained certification from the Dental Assisting National Board, and with such designation, the individual may apply for registration to practice as a registered dental assistant in this State. All certified dental assistants must be registered by the State, pursuant to Rule 0460-4-.02, before they are eligible to practice as registered dental assistants in this State.
- (5) Coronal Polishing - The polishing of the enamel and restorations on the clinical crown of human teeth by utilizing a combination of a polishing agent and a slow speed handpiece, a prophyl angle, a rubber cup, or any home care cleaning device.
- (6) Dental Public Health - That specialty branch of dentistry which deals with the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care programs as well as the prevention and control of dental diseases on a community basis.

(Rule 0460-1-.01, continued)

- (7) Division - The Tennessee Department of Health, Division of Health Related Boards, from which the Board receives administrative support.
- (8) Endodontics - That specialty branch of dentistry which deals with the morphology, physiology and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic and clinical sciences including biology of the normal pulp, the etiology, diagnosis, prevention and treatment of diseases and injuries of the pulp and associated periradicular conditions.
- (9) Full-Time Employment – A minimum of one thousand and five hundred (1500) employed hours per year.
- (10) Licensed Dental Hygienist - An auxiliary employee of a licensed dentist(s) who has been issued a license to engage in clinical procedures primarily concerned with the performance of preventive dental service which does not constitute the practice of dentistry and is performed in accordance with the statutes and rules of the Board, under the direct and/or general supervision and full responsibility of a licensed dentist, pursuant to T.C.A. §§ 63-5-108 (b) and 63-5-115 (b) through (e).
- (11) Licensee - Any person who has been lawfully issued a license to practice dentistry or dental hygiene in Tennessee.
- (12) Mobile Dental Clinic – Any self-contained clinic or unit which may be moved, towed, transported or utilized on a permanent or temporary basis to an out-of-office location in which dentistry is practiced. The out-of-office location may include, but is not limited to, schools, nursing homes, or other institutions.
- (13) Oral and Maxillofacial Radiology – That specialty of dentistry and discipline of radiology concerned with the production and interpretation of images and data produced by all modalities of radiant energy that are used for the diagnosis and management of diseases, disorders and conditions of the oral and maxillofacial region.
- (14) Oral and Maxillofacial Surgery - That specialty branch of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial regions. Oral and Maxillofacial Surgery includes the treatment of the oral cavity and maxillofacial area or adjacent or associated structures and their impact on the human body that includes the performance of the following areas of Oral and Maxillofacial Surgery, as described in the most recent version of the Parameters and Pathways: Clinical Practice Guidelines for Oral and Maxillofacial Surgery of the American Association of Oral and Maxillofacial Surgeons:
 - (a) Patient assessment;
 - (b) Anesthesia in outpatient facilities, as provided in T.C.A. §§ 63-5-105 (6) and 63-5-108 (g);
 - (c) Dentoalveolar surgery;
 - (d) Oral and craniomaxillofacial implant surgery;
 - (e) Surgical correction of maxillofacial skeletal deformities;
 - (f) Cleft and craniofacial surgery;
 - (g) Trauma surgery;
 - (h) Temporomandibular joint surgery;

(Rule 0460-1-.01, continued)

- (i) Diagnosis and management of pathologic conditions;
 - (j) Reconstructive surgery including the harvesting of extra oral/distal tissues for grafting to the oral and maxillofacial region; and
 - (k) Cosmetic maxillofacial surgery.
- (15) Oral and Maxillofacial Pathology - Oral and Maxillofacial Pathology is the specialty of dentistry and discipline of pathology that deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes, and effects of these diseases. The practice of Oral and Maxillofacial Pathology includes research and diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations. Oral and Maxillofacial Pathology deals with the nature of the diseases affecting the oral cavity and maxillofacial area or adjacent or associated structures, through study of its causes, its processes and its effects, together with the associated alternations of oral structure and function. The practice of oral and maxillofacial pathology shall include development and application of this knowledge through the use of clinical, microscopic, radiographic, biochemical or other such laboratory examinations or procedures as may be required to establish a diagnosis and/or gain other information necessary to maintain the health of the patient, or to correct the result of structural or functional changes produced by alternations from the normal.
- (16) Orthodontics and Dentofacial Orthopedics - That specialty branch of dentistry concerned with the supervision, guidance, and correction of the growing, or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex. Major responsibilities of orthodontic and dentofacial orthopedic practice include the diagnosis, prevention, interception and treatment of all forms of malocclusions of the teeth and associated alterations in their surrounding structures; the design, application, and control of functional and corrective appliances, and the guidance of the dentitions and its supporting structures to attain and maintain optimal occlusal relations in physiologic and esthetic harmony among facial and cranial structures.
- (17) Pediatric Dentistry (Pedodontics) - That specialty branch of dentistry associated with the practice and teaching of comprehensive preventive and therapeutic oral health care of children from birth through adolescence. It shall be construed to include care for special patients beyond the age of adolescence who demonstrate mental, physical and/or emotional problems.
- (18) Periodontics - That specialty branch of dentistry which deals with the diagnosis and treatment of disease of the supporting and surrounding tissue of the teeth. The maintenance of the health of these structures and tissues, achieved through periodontal treatment procedures, is also considered to be a responsibility of a periodontist.
- (19) Practical Dental Assistant - An auxiliary employee of a licensed dentist(s) who performs supportive chairside procedures under the direct supervision and full responsibility of that licensed dentist or who is a dental assistant student in an educational institution accredited by the Commission on Dental Accreditation of the American Dental Association, as defined by Rule 0460-4-.01.
- (20) Prosthetic Function – Dental procedure involving any inlay, crown, bridge, partial denture, or complete denture that restores or replaces loss of tooth structure, teeth, or oral tissues.
- (21) Prosthodontics - That specialty branch of dentistry pertaining to the diagnosis, treatment planning, rehabilitation and maintenance of the oral function, comfort, appearance and health of patients with clinical conditions associated with missing or deficient teeth and/or maxillofacial tissues using biocompatible substitutes. The following constitute branches of Prosthodontics:

(Rule 0460-1-.01, continued)

- (a) Removable Prosthodontics is that branch of prosthodontics concerned with the replacement of teeth and contiguous structures for edentulous or partially edentulous patients by artificial substitutes that are removable from the mouth.
 - (b) Fixed Prosthodontics is that branch of prosthodontics concerned with the replacement and/or restoration of teeth by artificial substitutes that are not removable from the mouth.
 - (c) Maxillofacial Prosthetics is that branch of prosthodontics concerned with the restoration and/or replacement of stomatognathic and associated facial structures by artificial substitutes that may or may not be removable.
- (22) Registered Dental Assistant - An auxiliary employee of a licensed dentist(s) who has been issued a registration to practice intraoral dental assisting procedures in accordance with the statutes and rules of the Board, and is eligible to seek certification and training in advanced dental assisting areas, and who practices under the direct supervision and full responsibility of a licensed dentist.
 - (23) Registrant - Any person who has been lawfully issued a registration from the Board to practice as dental assistants.
 - (24) Restorative Function – Dental procedure involving the repairing, restoring, or reforming the shape, form, and function of part or all of a tooth.
 - (25) Sealant Application - The application of an organic polymer to the enamel surfaces of teeth.
 - (26) S.R.T.A. - The Southern Regional Testing Agency or its successor organization.
 - (27) Specialist - A licensee who has satisfactorily completed the requirements as set forth in the Dental Practice Act and these rules to practice one of the specialties recognized by the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-101, 63-5-105, 63-5-108, 63-5-111 through 63-5-115, and 63-5-117.

Administrative History: Original rule filed June 7, 1974. Repeal and new rule filed August 26, 1980; effective December 1, 1980. Amendment filed September 13, 1985; effective October 13, 1985. Amendment filed September 24, 1987; effective November 8, 1987. Amendment filed April 30, 1991; effective June 14, 1991. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed December 7, 1998; effective February 20, 1999. Amendment filed February 9, 2000; effective April 24, 2000. Amendment filed August 21, 2002; effective November 4, 2002. Amendment filed February 18, 2003; effective May 4, 2003. Amendment filed September 17, 2003; effective December 1, 2003. Amendment filed November 17, 2003; effective January 31, 2004. Amendment filed June 18, 2004; effective September 1, 2004. Amendment filed December 28, 2004; effective March 13, 2005. Amendments filed August 3, 2005; effective October 17, 2005. Amendment filed August 23, 2005; effective November 6, 2005. Amendment filed October 12, 2007; effective December 26, 2007.

0460-1-.02 FEES. The fees authorized by the Tennessee Dental Practice Act (T.C.A. §§ 63-5-101, et seq.) and other applicable statutes are established and assessed by the Board as non-refundable fees, as follows:

- (1) Dentists
 - (a) Licensure Application Fee - Payable each time an application for licensure is filed. This fee also applies to limited, educational limited, dual degree and criteria (reciprocity) licensure applicants. \$400.00
 - (b) Limited and Educational Limited Licensure Fee - Payable each time an application for a limited or an educational limited \$150.00

(Rule 0460-1-.02, continued)

license is filed. This fee is to be paid in addition to the licensure application fee.

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| (c) | Criteria (Reciprocity) Licensure Fee - Payable each time an application for a criteria (reciprocity) license is filed. This fee is to be paid in addition to the licensure application fee. | \$ 150.00 |
| (d) | Specialty Certification Application Fee - Payable each time an application for a specialty certification is filed. | \$150.00 |
| (e) | Student Clinical Instructors Exemption Fee - Payable each time and for each individual named in the Application for Exemption submitted pursuant to Rule 0460-2-.04 (5). | \$10.00 |
| (f) | Permit Fees - (limited conscious sedation, comprehensive conscious sedation, deep sedation/general anesthesia) Payable each time an application for a new permit or a biennial renewal of a permit is filed. | |
| 1. | Initial Permit Fee | \$300.00 |
| 2. | Biennial Permit Renewal Fee | \$100.00 |
| (g) | Licensure Renewal Fee – Payable biennially by all licensees, including educational and dual degree licensees, and excluding Inactive Pro Bono licensees. | \$300.00 |
| (h) | State Regulatory Fee - Payable upon application for licensure and biennially thereafter by all licensees. | \$ 10.00 |
| (i) | Reinstatement Fee - Payable when a licensee fails to renew licensure timely and which is paid in addition to all current and past due licensure renewal fees. | \$750.00 |
| (j) | Duplicate License Fee - Payable when a licensee requests a replacement for a lost or destroyed “artistically designed” wall license or renewal certificate. | \$ 30.00 |
| (k) | Inactive Pro Bono Renewal Fee | \$ 0.00 |
| (l) | Examination Fee - Payable each time an application is filed to take a Board-approved examination as provided in rule 0460-2-.05 (1) (a) or the National Boards’ examination, and when the applicant has been instructed to submit this fee directly to the Board. | \$ 875.00 |
| (2) | Dental Hygienist | |
| (a) | Licensure Application Fee - Payable each time an application for licensure is filed. This fee also applies to criteria approval and educational licensure applications. | \$115.00 |
| (b) | Criteria Licensure Fee - Payable each time an application for criteria approval licensure (reciprocity) is filed. This fee is to be | \$ 50.00 |

(Rule 0460-1-.02, continued)

paid in addition to the licensure application fee.

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| (c) | Educational Licensure Fee - Payable each time an application for an educational license is filed. This fee is to be paid in addition to the licensure application fee. | \$ 50.00 |
| (d) | Student Clinical Instructor Exemption Fee - Payable each time and for each individual named in the Application for Exemption submitted pursuant to Rule 0460-3-.04(5). | \$ 10.00 |
| (e) | Licensure Renewal Fee - Payable biennially by all licensees, including criteria approved and educational licensees. | \$190.00 |
| (f) | State Regulatory Fee - Payable upon application for licensure and biennially thereafter by all licensees. | \$ 10.00 |
| (g) | Reinstatement Fee - Payable when a licensee fails to renew licensure timely and which is paid in addition to all current and past due licensure renewal fees. | \$200.00 |
| (h) | Duplicate License Fee - Payable when a licensee requests a replacement for a lost or destroyed “artistically designed” wall license or renewal certificate. | \$ 20.00 |
| (i) | Examination Fee - Payable each time an application is filed to take a Board-approved examination as provided in rule 0460-3-.05 (1) (a) or the National Boards’ examination, and when the applicant has been instructed to submit this fee directly to the Board. | \$ 875.00 |
| (j) | Administration of Local Anesthesia Certification Fee – Payable each time an application for certification is filed. | \$ 50.00 |
- (3) Dental Assistants
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| (a) | Registration Application Fee - Payable each time an application for a registration to practice as a dental assistant is filed. | \$ 30.00 |
| (b) | Registration Renewal Fee - Payable biennially by all registrants. | \$135.00 |
| (c) | State Regulatory Fee - Payable upon application for registration and biennially thereafter by all registrants | \$ 10.00 |
| (d) | Reinstatement Fee - Payable when a registration is not timely renewed and which is paid in addition to all current and past due registration renewal fees. | \$100.00 |
| (e) | Duplicate Registration Fee - Payable when a registrant requests a replacement for a lost or destroyed “artistically designed” wall registration or renewal certificate. | \$ 20.00 |
| (f) | Coronal Polishing Examination Fee - Payable each time the registrant applies to sit for the written and/or clinical | \$ 75.00 |

(Rule 0460-1-.02, continued)

examination. It is collected by the Board's Administrative Office.

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| (g) | Sealant Application Certification Fee - To be paid to the Board's Administrative Office. | \$ 15.00 |
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| (h) | Radiology Certification Fee – To be paid to the Board's Administrative Office | \$ 15.00 |
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| (i) | Nitrous Oxide Monitoring Certification Fee – To be paid to the Board's Administrative Office | \$ 15.00 |
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| (j) | Expanded Restorative Functions Certification Fee – To be paid to the Board's Administrative Office | \$ 15.00 |
| | | |
| (k) | Expanded Prosthetic Functions Certification Fee – To be paid to the Board's Administrative Office | \$ 15.00 |
- (4) Fees may be paid in the following manner:
- (a) All fees paid by money order, certified, personal, or corporate check must be submitted to the Board's Administrative Office and made payable to the Tennessee Board of Dentistry.
- (b) Fees may be paid by Division-approved credit cards or other Division-approved electronic methods.

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-1-106, 63-1-107, 63-1-108, 63-5-105, 63-5-105(7), 63-5-107, 63-5-108, 63-5-110 through 63-5-114, 63-5-117, 63-5-118, and 63-5-132. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed August 26, 1980; effective December 1, 1980. Amendment filed October 13, 1983; effective November 14, 1983. Amendment filed September 24, 1987; effective November 8, 1987. Amendment filed June 8, 1989; effective July 23, 1989. Amendment filed November 30, 1989; effective January 14, 1990. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed December 5, 1994; effective February 18, 1995. Amendment filed March 20, 1996; effective June 3, 1996. Amendment filed September 26, 1996; effective December 10, 1996. Amendment filed February 9, 2000; effective April 24, 2000. Repeal and new rule filed April 10, 2002; effective June 24, 2002. Amendment filed August 21, 2002; effective November 4, 2002. Amendment filed March 17, 2003; effective July 29, 2003. Amendment filed June 13, 2003; effective August 27, 2003. Amendment filed August 18, 2003; effective November 1, 2003. Amendment filed September 17, 2003; effective December 1, 2003. Amendment filed October 20, 2003; effective January 3, 2004. Amendment filed June 18, 2004; effective September 1, 2004. Amendment filed December 28, 2004; effective March 13, 2005. Amendment filed December 16, 2005; effective March 1, 2006. Amendments filed October 12, 2007; effective December 26, 2007.

0460-1-.03 BOARD OFFICERS, CONSULTANTS, MEETINGS, DECLARATORY ORDERS, AND SCREENING PANELS.

- (1) The Board shall annually elect from its members the following officers:

(Rule 0460-1-.03, continued)

- (a) President - who shall preside at all Board meetings.
 - (b) Vice President - who shall preside at Board meetings in the absence of the President.
 - (c) Secretary-Treasurer - who along with the Board Administrator shall be responsible for correspondence from the Board.
- (2) Minutes of the Board meetings and all records, documents, applications, and correspondence will be maintained in the Board Administrative Office.
- (3) All requests, applications, notices, complaints, other communications and correspondence shall be directed to the Board Administrative Office. Any requests or inquiries requiring a Board decision or official Board action except documents relating to disciplinary actions, declaratory orders or hearing requests must be received fourteen (14) days prior to a scheduled Board meeting and will be retained in the Administrative Office and presented to the Board at the Board meeting. Such documents not timely received shall be set over to the next Board meeting.
- (4) The Board authorizes its designee, who shall be a Board designated licensed dentist employed by the Division, to act as the Board consultant and who is vested with the authority of the Board to do the following acts:
- (a) Review and make determinations on licensure, registration, certification, permits, exemption, renewal, and reactivation of licensure or registration applications subject to the rules governing those respective applications.
 - (b) Serve as consultant to the Board to make determinations, subject to subsequent ratification by the full Board, of the following:
 - 1. Petitions for stay of Board Orders pursuant to Rule 1360-4-1-.18.
 - 2. Applications by out of state practitioners for permission to consult or operate in Tennessee pursuant to T.C.A. §63-5-109(4).
 - 3. Approve or reject special projects pursuant to T.C.A. §63-5-109(5) and T.C.A. §63-5-109(12).
 - 4. Approve or reject agencies employing dental interns, externs or graduates of dental and dental hygiene schools pursuant to T.C.A. §63-5-109(9).
 - 5. Approve or reject research or development projects pursuant to T.C.A. §63-5-109(10).
 - 6. Approve or reject protocols for delivery of services in health care facilities by dental hygienists pursuant to T.C.A. §63-5-115(d).
 - 7. Any other matter authorized by a majority vote of the Board.
- (5) In addition to the board consultant described in paragraph (4), consultants may be recruited from licensed dentists in Tennessee, who meet certain qualifications including, but not limited to those qualifications required for board membership, to act as rotational (part-time) consultants to the Division to decide the following:
- (a) Whether and what type disciplinary actions should be instituted upon complaints received or investigations conducted by the Division.

(Rule 0460-1-.03, continued)

- (b) Whether and under what terms a complaint, case or disciplinary action might be settled or closed. Any matter proposed for settlement must be subsequently ratified by the full Board before it will become effective.
- (c) Whether and under what terms a complaint might be closed with a letter of warning, letter of concern, or acknowledgement of closure.
- (6) The salary of the Secretary of the Board shall be set at \$000.00 so long as the consultant authorized by paragraph (4) of this rule is designated. In the event that the Secretary acts as the Board consultant, the salary of the secretary shall be five hundred dollars (\$500.00) each month.
- (7) Request for Certificates of Fitness (verifications) for licensees or registrants desiring to practice in another state must be made in writing to the Board Administrative Office.
- (8) Request for duplicate or replacement licenses or registrations must be made in writing on a form to be supplied by the Board and forwarded to the Board's Administrative Office with the fee required in Rule 0460-1-.02.
- (9) Declaratory Orders. The Board adopts, as if fully set out herein, Rule 1200-10-1-.11 of the Division of Health Related Boards, as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to the rule and not by the Division. Declaratory order petition forms can be obtained from the Board's Administrative office.
- (10) Screening Panels - The Board adopts, as if fully set out herein, Rule 1200-10-1-.13, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the screening panel process.

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-223, 4-5-224, 4-5-225, 63-1-106, 63-1-108, 63-1-118, 63-1-132, 63-1-138, 63-5-105, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed August 26, 1980; effective December 1, 1980. Amendment filed December 2, 1980; effective March 31, 1981. Amendment filed October 13, 1983; effective November 14, 1983. Amendment filed September 21, 1989; effective November 5, 1989. Amendment filed April 30, 1991; effective June 14, 1991. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed March 20, 1996; effective June 3, 1996. Amendment May 15, 1996; effective September 27, 1996. Amendment filed April 10, 2001; effective June 24, 2001. Amendment filed April 10, 2002; effective June 24, 2002. Amendment filed July 21, 2004; effective October 4, 2004. Amendment filed April 5, 2006; effective June 19, 2006.

0460-1-.04 APPLICATION REVIEW, APPROVAL, DENIAL, AND INTERVIEWS. Review and decisions on applications cross referenced in Chapters 0460-2, 0460-3 and 0460-4, to this rule shall be governed by the following:

- (1) Completed applications received in the Board Administrative Office shall be submitted to a member of the Board or the Board consultant for review.
 - (a) An initial determination as to issuance or denial of the application shall be made after the application file is complete. Each member of the Board and the Board consultant is vested with the authority to make these initial determinations.
 - (b) Applicants, who by virtue of any criteria for licensure in the areas of mental, physical, moral or educational capabilities as contained in the application and review process which indicates derogatory information or a potential risk to the public health, safety and welfare, may be required to present themselves to the Board for an interview before final licensure may be granted. If sufficient cause exists, an applicant may be required to submit to a mental and/or physical examination.

(Rule 0460-1-.04, continued)

- (2) The specific authorization applied for may be issued pursuant to the initial determination made by the Board member or consultant reviewing the application. However, such determination shall not become fully effective until such time as the full Board ratifies it.
- (3) If an application is incomplete when received by the Board Administrative Office or the reviewing Board member determines additional information is required from an applicant before an initial determination can be made, the Board Administrative Office shall notify the applicant of the information required. The applicant shall cause the requested information to be received by the Board Administrative Office on or before the sixtieth (60th) day after receipt of the notification.
 - (a) Such notifications shall be sent certified mail return receipt requested from the Board Administrative Office.
 - (b) If the requested information is not timely received, the application file shall be closed and the applicant notified. No further Board action will take place until a new application is received pursuant to the rules governing the applicable process, including another payment of all fees.
- (4) If a completed application is initially denied by the reviewing Board member or consultant, the applicant shall be informed of that initial decision and that final determination shall be made by the full Board at its next meeting. If the full Board ratifies the initial denial, the action shall become final and the following shall occur:
 - (a) A notification of the denial shall be sent by the Board Administrative Office by certified mail return receipt requested which shall contain all the specific statutory or rule authorities for the denial.
 - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §4-5-101 et seq.) to contest the denial and the procedure necessary to accomplish that action.
 1. An applicant has a right to a contested case hearing only if the licensure denial was based on subjective or discretionary criteria.
 2. An applicant may be granted a contested case hearing if licensure denial is based on an objective, clearly defined criteria only if after review and attempted resolution by the Board's Administrative staff, the licensure application cannot be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal.
- (5) The initial determination procedures of this rule will not apply if the full Board reviews and makes final determination on any application during its meetings.
- (6) Any applicant who has successfully complied with all requirements of the rules governing the specific authorization applied for shall be entitled to its issuance with the following exceptions:
 - (a) Applicants who by virtue of any criteria in the area of mental, physical, moral or educational capabilities, as contained in the application and review process which indicates a potential risk to the public health, safety and welfare may, pursuant to T.C.A. §63-5-111(a)(1), be required to present themselves to the Board or selected member(s) of the Board for oral examination before final approval may be granted. If sufficient cause, as determined by the full Board, exists an applicant may be required, pursuant to T.C.A. §63-5-124(b), to submit to a mental and/or physical examination.

(Rule 0460-1-.04, continued)

- (b) The examinations which may be required by paragraph (6)(a) of this rule are considered part of the examinations as required prior to issuance of the authorization applied for pursuant to T.C.A. §63-5-111(a)(1).
- (c) The issuance of the authorization applied for may be withheld or restricted for violation of the provisions of T.C.A. §63-5-124(a) and any rules promulgated pursuant thereto or failure to fully comply with all application requirements.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-111, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed August 26, 1980; effective December 1, 1980. Amendment filed October 13, 1983; effective November 14, 1983. Repeal filed September 24, 1987; effective November 8, 1987. Repeal and new rule December 11, 1991; effective January 25, 1992. Amendment filed December 5, 1994; effective February 18, 1995. Amendment filed March 20, 1996; effective June 3, 1996. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed April 10, 2001; effective June 24, 2001.

0460-1-.05 CONTINUING EDUCATION AND C.P.R.

(1) Continuing Education - Hours Required

- (a) Beginning January 1, 2003, each licensed dentist must successfully complete forty (40) hours of continuing education in courses approved by the Board during the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the licensure renewal year. At least two (2) hours of the forty (40) hour requirement shall pertain to chemical dependency education.
 - 1. Example - To renew a license that expires in 2005, a dentist will attest on the renewal application that he/she completed forty (40) hours of continuing education from January 1, 2003 to December 31, 2004.
 - 2. Example - To renew a license that expires in 2006, a dentist will attest on the renewal application that he/she completed forty (40) hours of continuing education from January 1, 2003 to December 31, 2004.
 - 3. Example - To renew a license that expires in 2007, a dentist will attest on the renewal application that he/she completed forty (40) hours of continuing education from January 1, 2005 to December 31, 2006.
- (b) Beginning January 1, 2003, each licensed dental hygienist must successfully complete thirty (30) hours of continuing education in courses approved by the Board during the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the licensure renewal year. At least two (2) hours of the thirty (30) hour requirement shall pertain to chemical dependency education.
 - 1. Example - To renew a license that expires in 2005, a dental hygienist will attest on the renewal application that he/she completed thirty (30) hours of continuing education from January 1, 2003 to December 31, 2004.
 - 2. Example - To renew a license that expires in 2006, a dental hygienist will attest on the renewal application that he/she completed thirty (30) hours of continuing education from January 1, 2003 to December 31, 2004.
 - 3. Example - To renew a license that expires in 2007, a dental hygienist will attest on the renewal application that he/she completed thirty (30) hours of continuing education from January 1, 2005 to December 31, 2006.

(Rule 0460-1-.05, continued)

- (c) Beginning January 1, 2003, each registered dental assistant must successfully complete continuing education in courses approved by the Board during the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the registration renewal year.
 - 1. Twenty-four (24) hours are required in courses concerning procedures which are delegable or assignable to registered dental assistants, pursuant to Rule 0460-4-.08.
 - 2. Two (2) hours of the twenty-four (24) hour requirement are required in a course concerning chemical dependency education.
 - 3. The hours required in part (1) (c) 1. may pertain to coronal polishing if the registered dental assistant is certified to perform coronal polishing, pursuant to Rule 0460-4-.04.
 - 4. The hours required in part (1) (c) 1. may pertain to monitoring nitrous oxide if the registered dental assistant is certified to monitor nitrous oxide, pursuant to Rule 0460-4-.05.
 - 5. The hours required in part (1) (c) 1. may pertain to application of sealants if the registered dental assistant is certified to apply sealants, pursuant to Rule 0460-4-.09.
 - 6. The hours required in part (1) (c) 1. may pertain to any dental procedure that Tennessee Code Annotated, Title 63, Chapter 5 or Rule 0460-4 specifically authorizes a registered dental assistant to perform and if the registered dental assistant is certified to perform such procedures.
 - 7. The hours required in part (1) (c) 1. may pertain to restorative or prosthetic functions if the registered dental assistant is certified to perform restorative or prosthetic functions, pursuant to Rule 0460-4-.10.
 - 8. Example - To renew a registration that expires in 2005, a dental assistant will attest on the renewal application that he/she completed the continuing education required from January 1, 2003 to December 31, 2004.
 - 9. Example - To renew a registration that expires in 2006, a dental assistant will attest on the renewal application that he/she completed the continuing education required from January 1, 2003 to December 31, 2004.
 - 10. Example - To renew a registration that expires in 2007, a dental assistant will attest on the renewal application that he/she completed the continuing education required from January 1, 2005 to December 31, 2006.
- (d) New licensees and new registrants are exempt from the provisions of subparagraphs (1) (a), (1) (b), and (1) (c) during their initial two (2) calendar year (January 1 - December 31) cycle, starting with an odd-numbered year if it is the year of initial licensure or registration, or starting with the odd-numbered year if it precedes an even-numbered initial licensure or registration year.
 - 1. Example - An individual whose new license or registration was granted in 2003 is exempt from the continuing education requirements for the period beginning January 1, 2003 and ending December 31, 2004.
 - 2. Example - An individual whose new license or registration was granted in 2004 is exempt from the continuing education requirements for the period beginning January 1, 2003 and ending December 31, 2004.

(Rule 0460-1-.05, continued)

3. Example - An individual whose new license or registration was granted in 2005 is exempt from the continuing education requirements for the period beginning January 1, 2005 and ending December 31, 2006.
 - (e) The Board approves courses for only the number of hours contained in the course. The approved hours of any individual course will not be counted more than once in a calendar year toward the required hourly total regardless of the number of times the course is attended or completed by any individual licensee.
 - (f) Each practitioner is responsible to attend only courses approved by the Board under Rule 0460-1-.05(3)(d) if credit for continuing education is desired unless prior approval under Rules 0460-1-.05(3)(b) and (e) has been obtained.
 - (g) Notwithstanding the provisions of subparagraph (3) (d), all continuing education courses intended to meet the requirements of Rules 0460-2-.07 (6) (a) 1. (ii), 0460-2-.07 (6) (a) 2. (ii), and 0460-2-.07 (8) (b) shall have prior approval by an Anesthesia Consultant as provided in Rule 0460-2-.07 (11).
- (2) Continuing Education. Proof of Compliance
- (a) The due date for successful completion of the required continuing education hours is December 31st of the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the licensure or registration renewal year.
 - (b) Each dentist, dental hygienist, and registered dental assistant must, on their biennial renewal application, attest to attendance and successful completion of the required continuing education hours and that such hours were obtained during the calendar years of report.
 - (c) Each dentist, dental hygienist, and registered dental assistant must retain independent documentation of attendance and completion of all continuing education courses. This documentation must be retained for a period of three (3) years from the end of the calendar year in which the course is completed. This documentation must be produced for inspection and verification, if requested in writing by the Board during its verification process.
 - (d) Further, it is the responsibility of the practitioner to obtain documentation in the form of a certificate indicating the name of the practitioner attending such course, title of the course taken, date of the course, number of hours obtained for attending the course, and verification of the approved organization sponsoring the course.
 - (e) Any practitioner who, on their biennial renewal application, attests to attendance and successful completion of the required continuing education which in any way is not true will be subject to disciplinary action pursuant to T.C.A. §§ 63-5-124 (a) (1), (2), (3), (7) and (18).
- (3) Continuing Education Course Approval - Courses to be offered for credit toward the continuing education requirement must, unless otherwise provided, receive prior approval from the Board.
- (a) Course approval procedure for course providers - Unless otherwise provided, all courses shall be offered within Tennessee.
 1. To obtain prior approval the course provider must have delivered to the Board's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes the course, documentation which includes all of the following items which must be resubmitted if changes are made after receipt of approval from the Board:

(Rule 0460-1-.05, continued)

- (i) course description or outline.
 - (ii) names of all lecturers.
 - (iii) brief resume of all lecturers.
 - (iv) number of hours of educational credit requested.
 - (v) date of course.
 - (vi) copies of materials to be utilized in the course.
 - (vii) how verification of attendance is to be documented.
- 2. Under no circumstances shall continuing education courses be approved if the materials required by subparts (3) (a) 1. (i) through (3) (a) 1. (vii) are not received at least thirty (30) days prior to a regularly scheduled meeting of the Board at which approval is sought that precedes the course.
- 3. Notwithstanding the provisions of subparagraph (3) (a), any clinic, workshop, seminar or lecture at national, regional, state and local meetings of dentists, dental hygienists, and dental assistants will be recognized for continuing education credit by the Board if
 - (i) the course provider has complied with the provisions of parts (3) (a) 1. and (3) (a) 2.; or
 - (ii) the course provider is exempt from needing prior approval as provided in subparagraph (3) (d).
- 4. Notwithstanding the provisions of subparagraph (3) (a), out-of-state continuing education providers may seek course approval if they are a dental, dental hygiene, or dental assisting regulatory agency or association from a state that borders Tennessee; and
 - (i) the course provider has complied with the provisions of parts (3) (a) 1. and (3) (a) 2.; or
 - (ii) the course provider is exempt from needing prior approval as provided in subparagraph (3) (d).
- (b) Course approval procedure for individual licensees and registrants.
 - 1. Any licensee or registrant may seek approval to receive credit for successfully completing continuing education courses by complying with the provisions of subparagraph (3) (a).
 - 2. To retain course approval, the licensee or registrant must submit a course evaluation form, supplied by the Board, to the Board's Administrative Office within thirty (30) days after successfully completing the course.
- (c) Continuing Education courses may be presented in any of the following formats:
 - 1. Lecture.

(Rule 0460-1-.05, continued)

2. Audio or audiovisual - with successful completion of a written post experience examination to evaluate material retention if correspondence course.
 3. Correspondence - with successful completion of a written post experience examination to evaluate material retention.
 4. Any combination of the above.
- (d) The following courses need not receive prior approval and shall constitute Board approved continuing education courses:
1. Courses sponsored or approved by any of the following organizations:
 - (i) American Dental Association or its Constituent or Component Societies.
 - (ii) Academy of General Dentistry or a State Affiliate.
 - (iii) American Dental Hygienists' Association or its Constituent or Component Societies.
 - (iv) Any National, Regional or State Academy or Association of any of the recognized specialty branches of dentistry listed in T.C.A. §63-5-112.
 - (v) National Dental Association or its Constituent or Component Societies.
 - (vi) National Dental Hygiene Association.
 - (vii) Capital City Dental Society.
 - (viii) American Dental Assistants' Association or its Constituent or Component Societies.
 - (ix) Tennessee Dental Hygienists Academy of Advanced Study.
 - (x) Tennessee Department of Health and its affiliated Metropolitan Health Departments, those being the Chattanooga/Hamilton County Health Department, the Davidson County Health Department, the Jackson-Madison County Health Department, the Knox County Health Department, the Memphis and Shelby County Health Department, and the Sullivan County Health Department.
 - (xi) Tennessee Emergency Management Agency (TEMA).
 - (xii) Federal Emergency Management Agency (FEMA).
 2. Educational courses sponsored by an accredited school of dentistry, dental hygiene, or dental assisting. If such course is taken for or assigned quarter or semester credit hours, three (3) semester hours or equivalent quarter hours shall be equivalent to fifteen (15) continuing education hours. No credits will be counted for courses failed.
 3. Ten (10) hours of continuing education credit during the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the licensure or registration renewal year shall be given for general attendance at state, regional, or national dental meetings. These hours are in addition to any continuing education courses attended at any of those meetings.

(Rule 0460-1-.05, continued)

4. Four (4) hours of continuing education credit shall be given each time a licensee participates as an examiner for S.R.T.A.
 5. Courses in Advanced and Pediatric Cardiac Life Support that are sponsored by the American Heart Association or the American Red Cross. However, the hours awarded for such courses shall not be counted towards the CPR requirements of this rule.
- (e) Individual Board members and the Board consultant are vested with the authority to approve continuing education courses submitted in compliance with this rule. All such approvals must be presented to the Board for ratification..
- (4) Cardio Pulmonary Resuscitation (CPR)
- (a) Each dentist, dental hygienist, and dental assistant must attest, check a box, and/or enter signature when applying for biennial renewal of licensure or registration, which indicates current training in basic CPR.
 - (b) The hours necessary to obtain or maintain C.P.R. shall not be counted as continuing education hours.
 - (c) Each dentist, dental hygienist and registered dental assistant must retain independent documentation of CPR training for a period of three (3) years from the end of the calendar year in which the training is received. Such proof must be produced for inspection and verification, if requested in writing by the Board during its verification process.
 - (d) The following organizations are approved by the Board for CPR training:
 1. The American Red Cross
 2. The American Heart Association
 3. Programs offered in hospital settings
 4. Any organization which receives approval of specially designed CPR courses from the Board after its review.
- (5) Waiver of Continuing Education And/Or CPR Training
- (a) The Board may grant a waiver of the need to attend and complete the required hours of continuing education and/or the required CPR training if it can be shown to the Board that the failure to comply was not attributable to or was beyond the physical capabilities of the person seeking the waiver.
 - (b) Waivers will be considered only on an individual basis and may be requested by submitting the following items to the Board Administrative Office:
 1. A written request for a waiver which specifies what requirement is sought to be waived and a written and signed explanation of the reasons for the request.
 2. Any documentation which supports the reason for the waiver requested or which is subsequently requested by the Board.
 - (c) A waiver approved by the Board is effective for only the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that

(Rule 0460-1-.05, continued)

precede the licensure renewal year for which the waiver is sought unless otherwise specified in writing by the Board.

- (d) A dentist may not perform dental procedures if C.P.R. training is waived unless another dentist, a dental hygienist or dental assistant currently trained in C.P.R. is present within the confines of the dental office.
 - (e) The Board Consultant is authorized to grant or deny requests for waivers subject to subsequent Board ratification.
- (6) Continuing Education for Reactivation of Retired License or Registration - The continuing education hours obtained as a prerequisite for reactivation of licensure or registration may not be counted toward the continuing education hours required to be obtained before the licensee's or registrant's next biennial renewal.
- (a) Any dentist or dental hygienist who applies for reactivation of a license must comply with the following:
 - 1. If the license has been retired for less than two (2) years, the licensee must submit along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of one half (1/2) the number of hours of approved dental-related continuing education required by subparagraphs (1) (a) and (1) (b) of this rule, all of which must have been earned in the twelve (12) months immediately preceding application for reactivation.
 - 2. If the license has been retired for a period of two (2) years or more, but less than five (5) years, the licensee must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twenty four (24) hours of Board- approved dental-related continuing education. The continuing education must include at least one (1) course which focuses on and serves as a clinical (in the mouth) refresher and must have been earned in the twelve (12) months immediately preceding application for reactivation. In addition, and at the sole discretion of the Board or its consultant, when information indicates a cause for concern about continued competency, the licensee may be required to contact one of the approved schools of dentistry/hygiene for an evaluation of current competency before reinstatement will be considered.
 - 3. All applicants who have been retired for a period of five (5) years or more must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twenty four (24) hours of Board approved dental-related continuing education. The continuing education must include at least one (1) course which focuses on and serves as a clinical (in the mouth) refresher and must have been earned in the twelve (12) months immediately preceding application for reactivation. In addition, the licensees shall be required to present themselves to one of the approved schools of dentistry/hygiene for an evaluation of current competency before reinstatement will be considered. Compliance with any educational recommendations of the evaluating school is required before reinstatement will be considered.
 - (b) Any registered dental assistant who applies for reactivation of a registration must comply with the following:
 - 1. If the registrant has been retired for less than two (2) years, the registrant must submit along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of one-half (1/2)

(Rule 0460-1-.05, continued)

- the number of hours of approved dental-related continuing education required by subparagraph (1) (c) of this rule, all of which must have been earned in the twelve (12) months immediately preceding application for reactivation.
2. If the registrant has been retired for a period of two (2) years or more, but less than five (5) years, the registrant must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twelve (12) hours of continuing education as provided in subparagraph (1) (c) of this rule and must have been earned in the twelve (12) months immediately preceding application for reactivation.
 3. All applicants who have been retired for a period of five (5) years or more must submit, along with the reactivation request and application, proof or check a box/or enter signature on a Board form which indicates the attendance and completion of twenty-four (24) hours of continuing education as provided in subparagraph (1) (c) of this rule and must have been earned in the twelve (12) months immediately preceding application for reactivation.
- (c) The dentist, dental hygienist, or registered dental assistant who applies for reactivation of a license must also submit proof or check a box and/or enter signature on a Board form which indicates current training in CPR issued by a Board approved training organization. The hours required to obtain or maintain CPR training shall not constitute continuing education hours.
 - (d) The Board, upon receipt of a written request and explanation, may waive or condition any or all of the continuing education or CPR requirements for reactivation of a retired license in emergency situations.
 - (e) The Board Consultant is authorized to grant or deny requests for waivers subject to subsequent Board ratification.
- (7) Violations
- (a) Any dentist, dental hygienist, or dental assistant who falsely attests to attendance and completion of the required hours of continuing education and/or the CPR training requirement may be subject to disciplinary action pursuant to T.C.A. §63-5-124(A)(1), (3), (7) and (18).
 - (b) Any dentist, dental hygienist, or dental assistant who fails to obtain the required continuing education hours and/or CPR training may be subject to disciplinary action pursuant to T.C.A. §63-5-124(a)(1) and (18).
 - (c) Education hours obtained as a result of compliance with the terms of a settlement or Board Orders in any disciplinary action shall not be counted toward the continuing education hours required to be obtained during the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the licensure or registration renewal year.
- (8) Continuing education - In order to retain a limited or comprehensive conscious sedation or deep sedation/general anesthesia permit, a dentist must:
- (a) Maintain current certification in ACLS (a pediatric dentist may substitute PALS); or
 - (b) Certify attendance every two (2) years at a board approved course comparable to ACLS or PALS and devoted specifically to the prevention and management of emergencies associated with conscious sedation or deep sedation/general anesthesia.

(Rule 0460-1-.05, continued)

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-5-105, 63-5-107, 63-5-107(c), 63-5-108, 63-5-112, 63-5-114, 63-5-115, 63-5-117, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. Repeal and new rule filed December 11, 1991; effective January 25, 1992. Amendment filed June 29, 1994; effective September 12, 1994. Amendment filed December 5, 1994; effective February 18, 1995. Amendment filed March 20, 1996; effective June 3, 1996. Amendment to rule filed October 9, 1997; effective December 23, 1997. Amendment filed February 9, 2000; effective April 24, 2000. Amendment filed April 10, 2002; effective June 24, 2002. Amendment filed June 13, 2003; effective August 27, 2003. Amendment filed June 18, 2003; effective September 1, 2003. Amendment filed July 22, 2003; effective October 10, 2003. Notice of Withdrawal to subparagraph (3)(c) filed and effective September 24, 2003. Amendment filed August 18, 2003; effective November 1, 2003. Amendment filed December 28, 2004; effective March 13, 2005. Amendment filed August 3, 2005; effective October 17, 2005. Amendment filed August 23, 2005; effective November 6, 2005. Amendment filed July 10, 2006; effective September 23, 2006.

0460-1-.06 DISCIPLINARY ACTIONS, CIVIL PENALTIES, PROCEDURES, ASSESSMENT OF COSTS, AND SUBPOENAS.

- (1) Upon a finding by the Board that a licensee or registrant has violated any provision of the Tennessee Dental Practice (T.C.A. §63-5-101 et seq.) or the rules promulgated pursuant thereto, the Board may impose any of the following actions separately or in any combination which is deemed appropriate to the offense:
 - (a) Private Censure - This is a written action issued for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (b) Public Censure or Reprimand - This is a written action issued for one time and less severe violations. It is a formal disciplinary action.
 - (c) Probation - This is a formal disciplinary action which places a licensee or registrant on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and/or which restrict activities during the probationary period.
 - (d) Suspension - This is a formal disciplinary action which suspends a licensee's or registrant's right to practice for a fixed period of time. It contemplates the reentry into practice under the license or registration previously issued.
 - (e) Revocation for Cause. This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the registration or licensure previously issued. The Board, in its discretion, may allow reinstatement of a revoked registration or license upon conditions and after a period of time it deems appropriate. No petition for reinstatement and no new application for registration or licensure from a person whose license or registration was revoked shall be considered prior to the expiration of at least one year unless otherwise stated in the Board's revocation order.
 - (f) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee or registrant during any period of probation or suspension or as a prerequisite to the lifting of probation or suspension or the reinstatement of a revoked license or registration.
 - (g) Civil penalty - A monetary disciplinary action assessed by the Board pursuant to paragraph (4) of this rule.
 - (h) When the Board suspends a license or registration, the person may not practice dentistry, dental hygiene or as a dental assistant during the period of suspension and is also prohibited from doing the following:

(Rule 0460-1-.06, continued)

1. Direct chairside assistance to another dentist or dental hygienist in the dental treatment of any patient;
 2. Appear before dental patients in a laboratory coat, clinic smock or other garment which is customarily worn by practitioners when treating patients;
 3. Consultation with another practitioner concerning the treatment of the person's patients in the presence of, or within hearing of, any patient or patients; provided, however, that he or she may discuss with a subsequent treating practitioner, out of the presence or hearing of any patient, the patient's prior diagnosis or pre-existing treatment plan and such subsequent treating practitioner's proposed treatment plan. However, the fact or substance of such discussion shall not be communicated or conveyed to a patient or patients personally, or by another treating practitioner who presents it to the patient, as that person's judgment, such diagnosis, treatment plan or other professional determination;
 4. Personal acceptance of payment for dental services directly from a patient in the reception area of the office.
- (i) Once ordered, probation, suspension, revocation, assessment of a civil penalty, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee or registrant petitions, pursuant to paragraph (2) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met, and after any civil penalties assessed have been paid.
- (2) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed or unregistered practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.
- (a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:
1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or
 2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or
 3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license or registration previously revoked.
- (b) Procedures
1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c) or as contained in a Board-approved petition form, to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and

(Rule 0460-1-.06, continued)

- (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and
 - (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.
 - 2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.
 - 3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
 - 4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.
 - 5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.
- (c) Form Petition

Petition for Order of Compliance
Board of Dentistry

Petitioner's Name:	_____
Petitioner's Mailing Address:	_____

Petitioner's E-Mail Address:	_____
Telephone Number:	_____

Attorney for Petitioner:	_____
Attorney's Mailing Address:	_____

Attorney's E-Mail Address:	_____
Telephone Number:	_____

(Rule 0460-1-.06, continued)

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or
2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or
3. An order issued reflecting that compliance and reinstating a license or registration previously revoked.

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show compliance is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20_____.

Petitioner's Signature

- (3) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed or unregistered practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty other than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.
- (a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.
- (b) Procedures
1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) or on a Board-approved petition form to the Board's Administrative Office that shall contain all of the following:
 - (i) A copy of the previously issued order; and
 - (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and
 - (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that

(Rule 0460-1-.06, continued)

of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:
 - (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or
 - (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.
3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.
4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.
5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order Modification
Board of Dentistry

Petitioner's Name: _____
 Petitioner's Mailing Address: _____

 Petitioner's E-Mail Address: _____
 Telephone Number: _____

 Attorney for Petitioner: _____
 Attorney's Mailing Address: _____

 Attorney's E-Mail Address: _____
 Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

(Rule 0460-1-.06, continued)

Note – You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the __ day of _____, 20 ____.

Petitioner's Signature

(4) Civil Penalties

(a) Purpose

The purpose of this rule is to set out schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. §63-1-134. The Board may assess these civil penalties in lieu of, the civil penalties authorized by T.C.A. §63-5-124(a) and T.C.A. §63-5-116.

(b) Schedule of Civil Penalties

1. A Type A Civil Penalty may be imposed whenever the Board finds a person who is required to be licensed, certified, permitted, or registered by the Board, guilty of a willful and knowing violation of the Dental Practice Act, or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be, an imminent, substantial threat to the health, safety and welfare of an individual patient or the public. For purposes of this section, willfully and knowingly practicing dentistry, as a dental hygienist or as a dental assistant without a permit, license, certification or registration from the Board is one of the violations of the Dental Practice Act for which a Type A Civil Penalty is assessable.
2. A Type B Civil Penalty may be imposed whenever the Board finds the person required to be licensed, certified, permitted, or registered by the Board is guilty of a violation of the Dental Practice Act or regulations promulgated pursuant thereto in such manner as to impact directly on the care of patients or the public.
3. A Type C Civil Penalty maybe imposed whenever the Board finds the person required to be licensed, certified, permitted, or registered by the Board is guilty of a violation of the Dental Practice Act or regulations promulgated pursuant thereto, which are neither directly detrimental to the patients or public, nor directly impact their care, but have only an indirect relationship to patient care or the public.

(c) Amount of Civil Penalties.

1. Type A Civil Penalties shall be assessed in the amount of not less than \$500 and not more than \$1000.

(Rule 0460-1-.06, continued)

2. Type B Civil Penalties may be assessed in the amount of not less than \$100 and not more than \$500.
 3. Type C Civil Penalties may be assessed in the amount of not less than \$50 and not more than \$100.
- (d) Procedures for Assessing Civil Penalties
1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.
 2. Civil Penalties may also be initiated and assessed by the Board during consideration of any Notice of Charges. In addition, the Board may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division.
 3. In assessing the civil penalties pursuant to these rules the Board may consider the following factors:
 - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefits gained by the violator as a result of non-compliance; and
 - (v) The interest of the public.
 4. All proceedings for the assessment of civil penalties shall be governed by the contested case provision of Title 4, Chapter 5, T.C.A.
- (5) All contested case hearings before the Board shall be conducted pursuant to the Uniform Rules of Procedures for Contested Case Hearings Before State Administrative Agencies, Rules 1360-4-1-.01 through 1360-4-1-.20.
- (6) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-5-124.
- (7) Subpoenas
- (a) Purpose - Although this rule applies to persons and entities other than dentists, it is the Board's intent as to dentists that they be free to comprehensively treat and document treatment of their patients without fear that the treatment or its documentation will be unduly subjected to scrutiny outside the profession. Consequently, balancing that intent against the interest of the public and patients to be protected against substandard care and activities requires that persons seeking to subpoena such information and/or materials must comply with the substance and procedures of these rules.

(Rule 0460-1-.06, continued)

It is the intent of the Board that the subpoena power outlined herein shall be strictly construed. Such power shall not be used by the Division or Board investigators to seek other incriminating evidence against dentists when the Division or Board does not have a complaint or basis to pursue such an investigation. Thus, unless the Division or its investigators have previously considered, discovered, or otherwise received a complaint from either the public or a governmental entity, no subpoena as contemplated herein shall issue.

- (b) Definitions - As used in this chapter of rules the following words shall have the meanings ascribed to them:

1. Probable Cause

- (i) For Investigative Subpoenas - Shall mean that probable cause, as defined by case law at the time of request for subpoena issuance is made, exists that a violation of T.C.A. §§ 63-5-101, et seq., or rules promulgated pursuant thereto has occurred or is occurring and that it is more probable than not that the person(s), or item(s) to be subpoenaed possess or contain evidence which is more probable than not relevant to the conduct constituting the violation.
- (ii) The utilization of the probable cause evidentiary burden in proceedings pursuant to this rule shall not in any way, nor should it be construed in any way, to establish a more restrictive burden of proof than the existing preponderance of the evidence in any civil disciplinary action which may involve the person(s) or item(s) that are the subject of the subpoena.

2. Presiding Officer - For investigative subpoenas shall mean any elected officer of the Board.

- (c) Procedures

1. Investigative Subpoenas

- (i) Investigative Subpoenas are available only for issuance to the authorized representatives of the Tennessee Department of Health, its investigators and its legal staff.
- (ii) An applicant for such a subpoena must either orally or in writing notify the Board's Unit Director of the intention to seek issuance of a subpoena. That notification must include the following:
 - (I) The time frame in which issuance is required so the matter can be timely scheduled; and
 - (II) A particular description of the material or documents sought, which must relate directly to an ongoing investigation or contested case, and shall, in the instance of documentary materials, be limited to the records of the patient or patients whose complaint, complaints, or records are being considered by the Division or Board.
 - I. In no event shall such subpoena be broadly drafted to provide investigative access to dental records of other patients who are not referenced in a complaint received from an individual or governmental entity, or who have not otherwise sought relief, review, or Board consideration of a dentist's conduct, act, or omission.

(Rule 0460-1-.06, continued)

- II. If the subpoena relates to the prescribing practices of a licensee, then it shall be directed solely to the records of the patient(s) who received the pharmaceutical agents and whom the Board of Pharmacy or issuing pharmacy(ies) has so identified as recipients; and
 - (III) Whether the proceedings for the issuance are to be conducted by physical appearance or electronic means; and
 - (IV) The name and address of the person for whom the subpoena is being sought or who has possession of the items being subpoenaed.
- (iii) The Board's Unit Director shall cause to have the following done:
- (I) In as timely a manner as possible, arrange for an elected officer of the Board to preside and determine if issuing the subpoena should be recommended to the full Board; and
 - (II) Establish a date, time and place for the proceedings to be conducted and notify the Presiding Officer, the applicant and the court reporter; and
 - (III) Maintain a complete record of the proceedings including an audio tape in such a manner as to:
 - I. Preserve a verbatim record of the proceeding; and
 - II. Prevent the person presiding over the proceedings from being allowed to participate in any manner in any disciplinary action of any kind, formal or informal, which may result which involves either the person or the documents or records for which the subpoena was issued.
- (iv) The Proceedings
- (I) The applicant shall do the following:
 - I. Provide for the attendance of all persons whose testimony is to be relied upon to establish probable cause; and
 - II. Produce and make part of the record copies of all documents to be utilized to establish probable cause; and
 - III. Obtain, complete and provide to the Presiding Officer a subpoena which specifies the following:
 - A. The name and address of the person for whom the subpoena is being sought or who has possession of the items being subpoenaed; and
 - B. The location of the materials, documents or reports for which production pursuant to the subpoena is sought, if that location is known; and

(Rule 0460-1-.06, continued)

- C. A brief, particular description of any materials, documents or items to be produced pursuant to the subpoena; and
 - D. The date, time and place for compliance with the subpoena.
- IV. Provide the Presiding Officer testimony and/or documentary evidence which in good faith the applicant believes is sufficient to establish that probable cause exists for issuance of the subpoena as well as sufficient proof that all other reasonably available alternative means of securing the materials, documents or items have been unsuccessful.

(II) The Presiding Officer shall do the following:

- I. Have been selected only after assuring the Board's Unit Director that he or she has no prior knowledge of or any direct or indirect interest in or relationship with the person(s) being subpoenaed and/or the licensee who is the subject of the investigation; and
- II. Commence the proceedings and swear all necessary witnesses; and
- III. Hear and maintain the confidentiality of the evidence, if any, presented at the proceedings and present to the full Board only that evidence necessary for an informed decision; and
- IV. Control the manner and extent of inquiry during the proceedings and be allowed to question any witness who testifies; and
- V. Determine, based solely on the evidence presented in the proceedings, whether probable cause exists and, if so, make such recommendation to the full Board; and
- VI. Not participate in any way in any other proceeding whether formal or informal which involves the matters, items or person(s) which are the subject of the subpoena. This does not preclude the presiding officer from presiding at further proceedings for consideration of issuance of subpoenas in the matter.

(III) The Board shall do the following:

- I. By a vote of two thirds (2/3) of the Board members, issue the subpoena for the person(s) or items specifically found to be relevant to the inquiry, or quash or modify an existing subpoena by a majority vote; and
- II. Sign the subpoena as ordered to be issued, quashed or modified.

2. Post-Notice of Charges Subpoenas - If the subpoena is sought for a contested case hearing pursuant to Title 4, Chapter 5 of the Tennessee Code Annotated, the procedure in part (c) 1. of this paragraph shall not apply and all such post-notice of charges subpoenas should be obtained from the office of the Administrative Procedures Division of the Office of the Secretary of State pursuant to the Uniform Administrative Procedures Act and rules promulgated pursuant thereto.

(d) Subpoena Forms

(Rule 0460-1-.06, continued)

1. All subpoenas shall be issued on forms approved by the Board.
 2. The subpoena forms may be obtained by contacting the Board's Administrative Office.
- (e) Subpoena Service - Any method of service of subpoenas authorized by the Tennessee Rules of Civil Procedure or the rules of the Tennessee Department of State, Administrative Procedures Division may be utilized to serve subpoenas pursuant to this rule.

Authority: T.C.A. §§4-5-105, 4-5-202, 4-5-204, 4-5-217, 4-5-223, 4-5-224, 4-5-225, 63-1-122, 63-1-134, 63-1-144, 63-5-105, 63-5-116, 63-5-124, 63-5-125, and 63-5-128. **Administrative History:** Original rule filed December 11, 1991; effective January 25, 1992. Amendment filed February 12, 1996; effective April 27, 1996. Amendment filed May 15, 1996; effective September 27, 1996. Amendment filed December 7, 1998; effective February 20, 1999. Amendment filed February 15, 2000; effective April 30, 2000. Amendment filed April 10, 2001; effective June 24, 2001. Amendment filed August 21, 2002; effective November 4, 2002. Amendment filed June 18, 2004; effective September 1, 2004. Amendment filed August 27, 2004; effective November 10, 2004. Amendment filed April 5, 2006; effective June 19, 2006.

0460-1-.07 WORKING INTERVIEWS.

- (1) A dentist shall not conduct employment interviews with dentists, dental hygienists or dental assistants that include any patient care unless the dentist visually inspects and verifies the dentist's, dental hygienist's or dental assistant's current and unrestricted authorization to practice their profession in Tennessee.
- (2) A licensee's failure to comply with the provisions of this rule shall constitute unprofessional conduct and subject the licensee to disciplinary action pursuant to Rule 0460-1-.06.
- (3) An applicant's failure to comply with the provisions of this rule shall constitute unprofessional conduct and subject the applicant to licensure denial pursuant to Rule 0460-1-.04.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-104, 63-5-105, 63-5-107, and 63-5-116. **Administrative History:** Original rule filed December 11, 1991; effective January 25, 1992. Amendment filed February 9, 2000; effective April 24, 2000. New rule filed April 10, 2001; effective June 24, 2001.

0460-1-.08 DENTAL PROFESSIONAL CORPORATIONS AND DENTAL PROFESSIONAL LIMITED LIABILITY COMPANIES.

- (1) Dental Professional Corporations (D.P.C.) – Except as provided in this rule Dental Professional Corporations shall be governed by the provisions of Tennessee Code Annotated, Title 48, Chapter 101, Part 6.
 - (a) Filings – A D.P.C. need not file its Charter or its Annual Statement of Qualifications with the Board.
 - (b) Ownership of Stock – Only the following may form and own shares of stock in a foreign or domestic D.P.C. doing business in Tennessee:
 1. Dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 or licensed in another state; and/or
 2. A foreign or domestic general partnership, D.P.C. or Dental Professional Limited Liability Company (D.P.L.L.C.) in which all partners, shareholders, members or holders of financial rights are dentists licensed pursuant to Tennessee Code Annotated Title 63,

(Rule 0460-1-.08, continued)

Chapter 5 to practice dentistry in Tennessee or dentists licensed by other states, or composed of entities which are directly or indirectly owned by such licensed dentists.

(c) Officers and Directors of Dental Professional Corporations -

1. All, except the following officers, must be persons who are eligible to form or own shares of stock in a dental professional corporation as limited by T.C.A. § 48-101-610 (d) and subparagraph (1) (b) of this rule:
 - (i) Secretary;
 - (ii) Assistant Secretary;
 - (iii) Treasurer; and
 - (iv) Assistant Treasurer.
2. With respect to members of the Board of Directors, only persons who are eligible to form or own shares of stock in a dental professional corporation as limited by T.C.A. § 48-101-610 (d) and subparagraph (1) (b) of this rule shall be directors of a D.P.C.

(d) Practice Limitations

1. Engaging in, or allowing another dentist incorporator, shareholder, officer, or director, while acting on behalf of the D.P.C., to engage in, dental practice in any area of practice or specialty beyond that which is specifically set forth in the charter may be a violation of the unprofessional conduct enumerated in Rule 0460-1-.12 and/or Tennessee Code Annotated, Section 63-5-124 (a) (1).
 2. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a D.P.C.
 3. Nothing in these rules shall be construed as prohibiting a D.P.C. from electing to incorporate for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Business Corporations Act so long as those purposes do not interfere with the exercise of independent dental judgment by the dentist incorporators, directors, officers, shareholders, employees or contractors of the D.P.C. who are practicing dentistry as defined by Tennessee Code Annotated, Section 63-5-108.
 4. Nothing in these rules shall be construed as prohibiting a dentist from owning shares of stock in any type of professional corporation other than a D.P.C. so long as such ownership interests do not interfere with the exercise of independent dental judgment by the dentist while practicing dentistry as defined by Tennessee Code Annotated, Section 63-5-108.
- (2) Dental Professional Limited Liability Companies (D.P.L.L.C.) - Except as provided in this rule Dental Professional Limited Liability Companies shall be governed by either the provisions of Tennessee Code Annotated, Title 48, Chapters 248 or 249.
- (a) Filings - Articles filed with the Secretary of State shall be deemed to be filed with the Board and no Annual Statement of Qualifications need be filed with the Board.

(Rule 0460-1-.08, continued)

- (b) Membership - Only the following may be members or holders of financial rights of a foreign or domestic D.P.L.L.C. doing business in Tennessee:
 - 1. Dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 or licensed in another state; and/or
 - 2. A foreign or domestic general partnership, D.P.C. or D.P.L.L.C. in which all partners, shareholders, members or holders of financial rights are either dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 to practice dentistry in Tennessee or dentists licensed by other states or composed of entities which are directly or indirectly owned by such licensed dentists.
- (c) Managers, Directors or Governors of a D.P.L.L.C.
 - 1. All, except the following managers, must be persons who are eligible to form or become members or holders of financial rights of a dental professional limited liability company as limited by T.C.A. § 48-248-401 (d) and subparagraph (2) (b) of this rule:
 - (i) Secretary
 - (ii) Treasurer
 - 2. Only persons who are eligible to form or become members or holders of financial rights of a dental professional limited liability company as limited by T.C.A. § 48-248-401 (d) and subparagraph (2) (b) of this rule shall be allowed to serve as a director, or serve on the Board of Governors of a D.P.L.L.C.
- (d) Practice Limitations
 - 1. Engaging in, or allowing another dentist member or holder of financial rights, officer, manager, director, or governor, while acting on behalf of the D.P.L.L.C., to engage in, dental practice in any area of practice or specialty beyond that which is specifically set forth in the articles of organization may be a violation of the unprofessional conduct enumerated in Rule 0460-1-.12 and/or Tennessee Code Annotated, Section 63-5-124 (a) (1).
 - 2. Nothing in these rules shall be construed as prohibiting any health care professional licensed pursuant to Tennessee Code Annotated, Title 63 from being an employee of or a contractor to a D.P.L.L.C.
 - 3. Nothing in these rules shall be construed as prohibiting a D.P.L.L.C. from electing to form for the purposes of rendering professional services within two (2) or more professions or for any lawful business authorized by the Tennessee Limited Liability Company Act or the Tennessee Revised Limited Liability Company Act so long as those purposes do not interfere with the exercise of independent dental judgment by the dentist members or holders of financial rights, governors, officers, managers, employees or contractors of the D.P.L.L.C. who are practicing dentistry as defined by Tennessee Code Annotated, Section 63-5-108.
 - 4. Nothing in these rules shall be construed as prohibiting a dentist from being a member or holder of financial rights of any type of professional limited liability company other than a D.P.L.L.C. so long as such interests do not interfere with the exercise of independent dental judgment by the dentist while practicing dentistry as defined by Tennessee Code Annotated, Section 63-5-108.

(Rule 0460-1-.08, continued)

5. All D.P.L.L.C.s formed in Tennessee pursuant to Tennessee Code Annotated, Sections 48-248-104 or 48-249-1104 to provide services only in states other than Tennessee shall annually file with the Board a notarized statement that they are not providing services in Tennessee.
- (3) Dissolution - The procedure that the Board shall follow to notify the attorney general that a D.P.C. or a D.P.L.L.C. has violated or is violating any provision of Title 48, Chapters 101, 248 and/or 249, shall be as follows but shall not terminate or interfere with the secretary of state's authority regarding dissolution pursuant to Tennessee Code Annotated, Sections 48-101-624, 48-248-409, or 48-249-1122.
 - (a) Service of a written notice of violation by the Board on the registered agent of the D.P.C. and/or D.P.L.L.C. or the secretary of state if a violation of the provisions of Tennessee Code Annotated, Title 48, Chapters 101, 248, and/or 249 occurs.
 - (b) The notice of violation shall state with reasonable specificity the nature of the alleged violation(s).
 - (c) The notice of violation shall state that the D.P.C. and/or D.P.L.L.C. must, within sixty (60) days after service of the notice of violation, correct each alleged violation or show to the Board's satisfaction that the alleged violation(s) did not occur.
 - (d) The notice of violation shall state that, if the Board finds that the D.P.C. and/or D.P.L.L.C. is in violation, the attorney general will be notified and judicial dissolution proceedings may be instituted pursuant to Tennessee Code Annotated, Title 48.
 - (e) The notice of violation shall state that proceedings pursuant to this section shall not be conducted in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5 but that the D.P.C. and/or D.P.L.L.C., through its agent(s), shall appear before the Board at the time, date, and place as set by the Board and show cause why the Board should not notify the attorney general and reporter that the organization is in violation of the Act or these rules. The Board shall enter an order that states with reasonable particularity the facts describing each violation and the statutory or rule reference of each violation. These proceedings shall constitute the conduct of administrative rather than disciplinary business.
 - (f) If, after the proceeding the Board finds that a D.P.C. and/or D.P.L.L.C. did violate any provision of Title 48, Chapters 101, 248, and/or 249 or these rules, and failed to correct said violation or demonstrate to the Board's satisfaction that the violation did not occur, the Board shall certify to the attorney general and reporter that it has met all requirements of Tennessee Code Annotated, Sections 48-101-624 (1)-(3), and/or 48-248-409 (1)-(3) and/or 48-249-1122 (1)-(3).
 - (4) Violation of this rule by any dentist individually or collectively while acting as a D.P.C. or as a D.P.L.L.C. may subject the dentist(s) to disciplinary action pursuant to Tennessee Code Annotated, Sections 63-5-124 (a) (1).
 - (5) The authority to own shares of stock or be members or holders of financial rights in a D.P.C. or a D.P.L.L.C. granted by statute or these rules to professionals not licensed in this state shall in no way be construed as authorizing the practice of any profession in this state by such unlicensed professionals.

Authority: T.C.A. §§4-5-202, 4-5-204, 48-101-605, 48-101-608, 48-101-610, 48-101-618, 48-101-624, 48-101-628, 48-101-629, 48-101-630, 48-248-104, 48-248-202, 48-248-401, 48-248-404, 48-248-409, 48-248-501, 48-248-601, 48-248-602, 48-248-603, 48-249-101, *et seq.*, 63-5-105, 63-5-107, 63-5-108, 63-5-110, 63-5-121, and 63-

(Rule 0460-1-.08, continued)

5-124. *Administrative History:* Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. New rule filed September 4, 1998; effective November 18, 1998. Amendment filed June 13, 2003; effective August 27, 2003. Repeal and new rule filed April 5, 2006; effective June 19, 2006.

0460-1-.09 REPEALED.

Authority: T.C.A. §§4-5-202, 4-5-204, and 63-5-105. ***Administrative History:*** New rule filed September 4, 1998; effective November 18, 1998. Amendment filed June 13, 2003; effective August 27, 2003. Repeal filed April 5, 2006; effective June 19, 2006

0460-1-.10 CLINICAL TECHNIQUES-TEETH WHITENING. All teeth whitening formulations, except those sold over-the-counter, shall be prescribed and dispensed by a licensed dentist. Licensed dental hygienists or registered dental assistants are authorized to apply teeth whitening formulations, but only under the direct supervision of a licensed dentist.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, 63-5-108, and 63-5-115. ***Administrative History:*** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. New rule filed August 21, 2002; effective November 4, 2002.

0460-1-.11 INFECTION CONTROL.

- (1) The dentist shall ensure that at least one (1) of the following sterilization procedures is utilized daily for instruments and equipment:
 - (a) Steam autoclave
 - (b) Dry-heat
 - (c) Chemical vapor
 - (d) Disinfectant/chemical sterilant. U.S. Environmental Protection Agency (EPA) approved disinfectant shall be used in dilution amounts and specified time periods.
 - (e) Any procedure listed in MMWR, Vol 41, No. RR8, pp. 1-12, May 28, 1993 or successor publications.
- (2) The following instruments, unless disposable, shall be sterilized between patients, after removal of debris, by one (1) of the above methods provided in paragraph (1):
 - (a) Low speed handpiece contra angles, prophylaxis angles and nose cone sleeves
 - (b) High speed handpieces and surgical handpieces
 - (c) Hand and orthodontic instruments
 - (d) Burs and bur changers, including contaminated laboratory burs and diamond abrasives
 - (e) Endodontic instruments
 - (f) Air-water syringe tips
 - (g) High volume evacuator tips
 - (h) Sonic or ultrasonic scalers and tips

(Rule 0460-1-.11, continued)

- (i) Surgical instruments
 - (j) Electro-surgery tips
 - (k) Metal impression trays
 - (l) Intra-oral radiographic equipment that can withstand heat sterilization
- (3) All heat sterilizing devices must be tested for proper function by means of a biological monitoring system that indicates microorganism kill. The biological monitoring system used must include a control to verify proper microbial incubation. In the event of a positive biological spore test, the dentist must take immediate action to ensure that heat sterilization is being accomplished. Immediate action is defined as following manufacturer guidelines and performing a second (2nd) biological spore test. In the event a second (2nd) positive biological spore test occurs, the device must be removed from service until repaired. Proof of such repair must be maintained with the testing documentation.
- (4) Documentation must be maintained on all heat sterilizing devices in a log reflecting dates and person(s) conducting the testing, or by retaining copies of reports from an independent testing entity. The documentation shall be maintained for a period of at least two (2) years, and shall be maintained in the dental office and be made immediately available upon request by an authorized agent of the Tennessee Department of Health.
- (5) Environmental surfaces that are contaminated by blood or saliva must be properly cleaned prior to disinfecting.
- (6) Disinfection must be accomplished with an appropriate disinfectant that is registered with the EPA and used in accordance with the manufacturer's instructions or with bleach used in a dilution ratio of one (1) to ten (10) or one hundred (100) [1:10 or 1:100]. The disinfection process must be followed between each patient in the absence of a barrier.
- (7) Barrier such as impervious backed paper, aluminum foil or plastic wrap must be used to cover surfaces or items that may be contaminated by blood or saliva and that are difficult or impossible to disinfect. The barrier must be removed, discarded, and then replaced between patients.
- (8) All single use or disposable items, labeled as such, used to treat a patient must be discarded and not reused.
- (9) Items such as impressions contaminated with blood or saliva must be thoroughly rinsed, disinfected, placed in, and transported to the dental laboratory in an appropriate case containment device that is properly sealed and labeled "Biohazard", or labeled with the universal symbol for hazardous materials, or placed in a red container.
- (10) Oral prosthetic appliances received from a dental laboratory must be washed with soap or a detergent and water, rinsed well, appropriately disinfected, and rinsed well again before the prosthetic appliance is placed in the patient's mouth.
- (11) Surgical or examination gloves, surgical masks, and eye protection with eye shields shall be worn by all dentists, dental hygienists and dental assistants while performing, or assisting in the performance of, any intra-oral dental procedure on a patient in which contact with blood and/or saliva is imminent in accordance with CDC recommendations. Surgical or examination gloves must be changed between patients. Gloves are never to be washed and reused. Surgical or examination gloves that are punctured or torn must be removed and replaced immediately with new gloves following rewashing of the practitioner's hands with soap and water.

(Rule 0460-1-.11, continued)

- (12) All dentists, dental hygienists, and dental assistants shall follow hand hygiene guidelines in accordance with current CDC recommendations. Hand hygiene guidelines include, but are not limited to:
 - (a) Hands shall be washed with soap and water when hands are visibly dirty or contaminated with proteinaceous material, are visibly soiled with blood or other body fluids, before eating, and after using a restroom.
 - (b) Use alcohol-based hand rubs for routine decontamination of hands for all clinical indications, except as provided in subparagraph (a).
 - (c) Indications for hand hygiene include contact with a patient's intact skin, contact with environment surfaces/inanimate objects in the immediate vicinity of patients, before donning surgical or examination gloves, and after removal of gloves.
- (13) To minimize the need for emergency mouth-to-mouth resuscitation, a practitioner shall ensure that mouthpieces, resuscitation bags, or other ventilation devices, appropriate to the patient population served, are available.
- (14) All dental health care workers shall take appropriate precautions, pursuant to OSHA standard 29 C.F.R. 1910.1030, "Bloodborne Pathogens" or its successor, to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures. If a needlestick injury occurs, the dentist shall comply with the requirements established by OSHA.
- (15) All sharp items and contaminated wastes must be packaged and disposed of according to the requirements established by any federal, Tennessee state, and/or local government agencies which regulate health or environmental standards.
- (16) All dental health care workers who have exudative lesions or weeping dermatitis shall refrain from contact with equipment, devices, and appliances that may be used for or during patient care, where such contact holds potential for blood or body fluid contamination, and shall refrain from all patient care and contact until condition(s) resolves unless barrier techniques would prevent patient contact with the dental health care worker's blood or body fluid.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-2-101, 63-5-105, 63-5-108, 63-5-115, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. New rule filed June 13, 2003; effective August 27, 2003.

0460-1-.12 UNPROFESSIONAL CONDUCT. Pursuant to T.C.A. § 63-5-124, the Board is authorized to refuse to grant a license or certificate to an applicant or to discipline an individual licensed or certified by the Board if that individual has engaged in unprofessional conduct. Pursuant to its authority under T.C.A. § 63-5-124, the Board declares that unprofessional conduct includes, but is not limited to, the following:

- (1) Exercising undue influence on the patient or client, including the promotion of the sale of services, goods, appliances or drugs in such manner as to exploit the patient or client for the financial gain of the practitioner or of a third party.
- (2) Directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a patient or client or in connection with the performance of professional services.
- (3) Failing to make available to a patient or client, upon request, copies of documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client.
- (4) Making false or materially incorrect or inconsistent entries in any patient records or in the records of any health care facility, school, institution or other work place location.

(Rule 0460-1-.12, continued)

- (5) Revealing of personally identifiable facts, data or information obtained in a professional capacity without the prior consent of the patient or client, except as authorized or required by law.
- (6) Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger.
- (7) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience or by licensure, to perform them.
- (8) Performing professional services which have not been duly authorized by the patient or client or his or her legal representative.
- (9) Failing to maintain an accurate and legible written evaluation and treatment history for each patient.
- (10) Failing to identify to a patient, patient's guardian or the Board the name of an employee, employer, contractor, or agent who renders dental treatment or services upon request.
- (11) Failing to report suspected child abuse to the proper authorities, as required by T.C.A. § 37-1-403(a)(2).
- (12) Failing to respond to written communications from the Department of Health, which are sent pursuant to T.C.A. § 63-1-117(a), to make available any relevant records with respect to an inquiry or complaint about the licensee's unprofessional conduct.
- (13) Falsifying, altering or destroying treatment records in contemplation of an investigation by the Board or a lawsuit being filed by a patient.
- (14) Intentionally presenting false or misleading testimony, statements, or records to the Board or the Board's investigator or employees during the scope of any investigation, or at any hearing of the Board.
- (15) Conspiring with any person to commit an act, or committing an act which would tend to coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Department of Health during any investigation involving the Board.
- (16) Violating any lawful order of the Board previously entered in a disciplinary hearing, or failing to comply with a lawfully-issued subpoena of the Board.
- (17) Violating any term of probation or condition or limitation imposed on the licensee by the Board.
- (18) Practicing with an expired, retired, suspended or revoked license, permit, or registration.
- (19) Prescribing controlled substances for a habitual drug user in the absence of substantial dental justification.
- (20) Prescribing drugs for other than legitimate dental purposes.
- (21) Providing prescriptions for any controlled substances listed in Schedules II, III, IV, and V, as provided in 21 C.F.R. Chapter 2, 1308.12 through .15, to patients with whom no dentist/patient relationship has

(Rule 0460-1-.12, continued)

been established. For purposes of this provision, a “dentist/patient” relationship exists where a dentist has provided dental treatment to a patient on at least one (1) occasion within the preceding year, or exists by having adequate documented knowledge of the specific patient history.

- (22) Using or removing narcotics, drugs, supplies or equipment from any health care facility, school, institution or other work place location without prior authorization.
- (23) Pre-signing blank prescription forms or using pre-printed or rubber stamped prescription forms containing the dentist’s signature or the name of any controlled substances listed in Schedules II, III, IV, and V, as provided in 21C.F.R. Chapter 2, 1308.12 through .15.
- (24) Failing to exercise reasonable diligence to prevent partners, associates, and employees from engaging in conduct which would violate any provisions of the Tennessee Dental Practice Act or any rule, regulation, or order of the Board.
- (25) Failing to avoid interpersonal relationships that could impair professional judgment or risk the possibility of exploiting the confidence of a patient, including committing any act of sexual abuse, misconduct or exploitation related to the licensee’s practice of dentistry.
- (26) Termination of a dentist/patient relationship by a dentist, unless notice of the termination is provided to the patient. For purposes of this provision, a “dentist/patient” relationship exists where a dentist has provided dental treatment to a patient on at least one occasion within the preceding year.
 - (a) “Termination of a dentist/patient relationship by the dentist” means that the dentist is unavailable to provide dental treatment to a patient, under the following circumstances:
 - 1. The office where the patient has received dental care has been closed permanently or for a period in excess of thirty (30) days; or
 - 2. The dentist discontinues treatment of a particular patient for any reason, including non-payment of fees for dental services, although the dentist continues to provide treatment to other patients at the office location.
 - (b) The dentist who is the owner or custodian of the patient’s dental records shall mail notice of the termination of the dentist’s relationship to the patient, which notice shall provide the date that the termination becomes effective, and the date on which the dentist/patient relationship may resume, if applicable.
 - (c) The notice shall be mailed at least fourteen (14) days prior to the date of termination of the dentist/patient relationship, unless the termination results from an unforeseen emergency (such as sudden injury or illness), in which case the notice shall be mailed as soon as practicable under the circumstances.
- (27) Interfering or attempting to interfere with the professional judgment of an individual who is licensed or certified by the Board. Examples of interfering with the professional judgment of an individual who is licensed or certified by the Board include, but are not limited to, the following:
 - (a) Setting a maximum or other standardized time for the performance of specific dental procedures.
 - (b) Establishing professional standards, protocols or practice guidelines which conflict with generally accepted standards within the dental profession.
 - (c) Entering into any agreement or arrangement for management services that:

(Rule 0460-1-.12, continued)

1. interferes with a dentist's exercise of his/her independent professional judgment;
 2. encourages improper overtreatment or undertreatment by dentists; or
 3. encourages impermissible referrals from unlicensed persons in consideration of a fee.
- (d) Placing limitations or conditions upon communications that are clinical in nature with the dentist's patients.
- (e) Precluding or restricting an individual's ability to exercise independent professional judgment over all qualitative and quantitative aspects of the delivery of dental care.
- (f) Penalizing a dentist for reporting violations of a law regulating the practice of dentistry.

Authority: T.C.A. §§4-5-202, 4-5-204, 37-1-403, 63-1-117, 63-5-105, 63-5-108, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. Amendment filed May 28, 2004; effective August 11, 2004.

0460-1-.13 ETHICS.

- (1) For licensed dentists, the Board adopts, as if fully set out herein and to the extent that it does not conflict with state law, rules or Board Position Statements, the American Dental Association (ADA) Principles of Ethics and Code of Professional Conduct as it may, from time to time, be amended. A copy of the ADA Principles of Ethics and Code of Professional Conduct may be obtained by contacting the American Dental Association at 211 East Chicago Avenue, Chicago, IL 60611, or by phone at (312) 440-2500, or on the Internet at <http://www.ada.org>.
- (2) For licensed dental hygienists, the Board adopts, as if fully set out herein and to the extent that it does not conflict with state law, rules or Board Position Statements, the American Dental Hygienists' Association (ADHA) Code of Ethics for Dental Hygienists as it may, from time to time, be amended. A copy of the ADHA Code of Ethics for Dental Hygienists may be obtained by contacting the American Dental Hygienists' Association at 444 North Michigan Avenue, Suite 3400, Chicago, IL 60611, or by phone at (312) 440-8900, or on the Internet at <http://www.adha.org>.
- (3) For registered dental assistants, the Board adopts, as if fully set out herein and to the extent that it does not conflict with state law, rules or Board Position Statements, the American Dental Assistants Association (ADAA) Principles of Ethics and Professional Conduct as it may, from time to time, be amended. A copy of the ADAA Principles of Ethics and Professional Conduct may be obtained by contacting the American Dental Assistants Association at 203 North LaSalle Street, Chicago, IL 60601-1225, or by phone at (312) 541-1550, or on the Internet at <http://www.dentalassistant.org>.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. New rule filed October 20, 2003; effective January 3, 2004.

0460-1-.14 MOBILE DENTAL CLINICS.

- (1) Mobile dental clinics shall be operated/owned only by a dentist licensed in Tennessee, an official agency of the state government or any subdivision thereof, any nonprofit organization, or any hospital. Dental hygienists and dental assistants shall not operate/own a mobile dental clinic.
- (2) All mobile dental clinics in Tennessee shall:
 - (a) Maintain all dental records as provided in Rule 0460-2-.12.

(Rule 0460-1-.14, continued)

- (b) Observe all patient rights as provided in Rule 0460-1-.16.
 - (c) Obtain written, informed consent when treating a minor.
 - (d) Comply with all applicable federal, state and local laws, regulations and ordinances regulating radiographic equipment, flammability, construction, and zoning.
 - (e) Obtain all applicable county and city licenses or permits to operate the facility.
 - (f) Comply with all applicable federal, state and local laws, regulations and ordinances regarding infection control and sanitation procedures, including:
 - 1. Providing access to a ramp or lift if services are provided to disabled persons.
 - 2. Having access to a properly functioning sterilization system.
 - 3. Having access to an adequate supply of potable water, including hot water.
 - 4. Having access to toilet facilities.
 - 5. Having a covered galvanized, stainless steel, or other non-corrosive metal container for deposit of refuse and waste materials; and,
 - 6. Compliance with Rule 0460-1-.11.
- (3) The mobile dental clinic must have:
- (a) A dental treatment chair;
 - (b) A dental treatment light;
 - (c) A radiographic unit with appropriate processing equipment;
 - (d) A portable delivery system or an integrated system;
 - (e) An evacuation unit suitable for dental surgical use;
 - (f) Equipment to treat medical emergencies; and,
 - (g) Appropriate and sufficient dental instruments and infection control supplies.
- (4) School-based prevention programs whose mobile dental clinics provide only dental screenings, oral health education, oral evaluations, topical fluoride, and sealant application are not required to have the equipment listed in subparagraphs (3) (c), (3) (e) and (3) (f) of this rule.
- (5) The driver of the mobile dental clinic must possess a valid operator's license appropriate for the type vehicle being driven and not have any violations related to the operation of a motor vehicle in the last three (3) years, and not have any violations involving alcohol or illegal substances related to the operation of a motor vehicle in the last ten (10) years.
- (6) All dental hygienist and dental assistants assisting the dentist must be currently licensed and registered with the Tennessee Board of Dentistry.
- (7) Dental hygienists may perform delegable procedures for patients of record of their employer dentist who reside in nursing homes pursuant to Rule 0460-3-.09 (2).

(Rule 0460-1-.14, continued)

- (8) When treating a nursing home patient, the dentist must comply with Rule 0460-1-.15.
- (9) Violations of this rule subject the licensee/registrant to disciplinary action, pursuant to T.C.A. § 63-5-124.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-108, 63-5-115, 63-5-121, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. Repeal and new rule filed August 23, 2005; effective November 6, 2005. Amendment filed October 12, 2007; effective December 26, 2007.

0460-1-.15 TREATMENT OF NURSING HOME PATIENTS. When treating a nursing home patient in a mobile clinic or in a nursing home, the dentist must:

- (1) Record in both the dental record and the nursing home patient record the procedures performed.
- (2) Record in the dental record the name of the facility where the patient resides.
- (3) Obtain written informed consent from the patient or if patient is unable to fully understand and give informed consent, consent must be obtained from the legal guardian of the patient. If a power of attorney is on file in the nursing home for the patient, the written informed consent must be obtained from the person who holds the authority under the power of attorney. It is the responsibility of the dentist to ascertain whether or not a power of attorney is on file for the patient before evaluation of the patient by the dentist; and,
- (4) Consult with the patient's physician when medically indicated.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, and 63-5-108. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. Repeal and new rule filed August 23, 2005; effective November 6, 2005.

0460-1-.16 PATIENT RIGHTS. Each patient shall, at a minimum, be afforded the following rights:

- (1) To be treated with respect, consideration and dignity.
- (2) To privacy in treatment.
- (3) To have their records kept confidential and private.
- (4) To be provided information concerning their diagnosis, evaluation, treatment options and progress.
- (5) An opportunity to participate in decisions involving their health care.
- (6) To refuse any diagnostic procedure or treatment and be advised of the consequences of that refusal.
- (7) To obtain a copy or summary of their personal dental record, pursuant to T.C.A. §§ 63-2-101, et seq.
- (8) To have appropriate assessment and management of pain.
- (9) To be free from mental and physical abuse. Should this right be violated, the dentist must notify the Tennessee Department of Human Services, Adult Protective Services or Tennessee Department of Children's Services immediately as required by law.

(Rule 0460-1-.16, continued)

Authority: T.C.A. §§4-5-202, 4-5-204, 63-2-101, 63-5-105, and 63-5-124. **Administrative History:** Original rule certified June 7, 1974. Repeal filed August 26, 1980; effective December 1, 1980. New rule filed June 13, 2003; effective August 27, 2003.

0460-1-.17 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

- (1) Malpractice Reporting Requirements - The threshold amount below which medical malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the “Health Care Consumer Right-To-Know Act of 1998” shall be twenty-five thousand dollars (\$25,000).
- (2) Criminal Conviction Reporting Requirements - For purposes of the “Health Care Consumer Right-To-Know Act of 1998”, the following criminal convictions must be reported:
 - (a) Conviction of any felony; and
 - (b) Conviction or adjudication of guilt of any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:
 1. Sex.
 2. Alcohol or drugs.
 3. Physical injury or threat of injury to any person.
 4. Abuse or neglect of any minor, spouse or the elderly.
 5. Fraud or theft.
 - (c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-101, and 63-51-101, et seq. **Administrative History:** Original rule filed February 15, 2000; effective April 30, 2000.

0460-1-.18 RESTRAINT OF PEDIATRIC AND SPECIAL NEEDS PATIENTS.

- (1) Purpose – The purpose of this rule is to recognize the unfortunate fact that pediatric and special needs patients may need to be restrained in order to prevent injury and to protect the health and safety of the patients, the dentist, and the dental staff. To achieve this it will be important to build a trusting relationship between the dentist, the dental staff and the patient. This will necessitate that the dentist establishes communication with the patient and promote a positive attitude towards oral and dental health in order to alleviate fear and anxiety and to deliver quality dental care.
- (2) Training Requirement – Prior to administering restraint, the dentist must have received formal training at a dental school or during an American Dental Association accredited residency program in the methods of restraint described in paragraph (4) of this rule.
- (3) Pre-Restraint Requirements
 - (a) Prior to administering restraint, the dentist shall consider:
 1. The need to diagnose and treat the patient;

(Rule 0460-1-.18, continued)

2. The safety of the patient, dentist, and staff;
 3. The failure of other alternate behavioral methods;
 4. The effect on the quality of dental care;
 5. The patient's emotional development; and
 6. The patient's physical condition.
- (b) Prior to administering restraint, the dentist shall obtain written informed consent from the parent or legal guardian and document such consent in the dental record, unless the parent or legal guardian is restraining or immobilizing the patient by use of the method described in subparagraph (4) (b) of this rule.
- (4) Methods of Restraint
- (a) The Hand-Over-Mouth Exercise (HOME) Method
1. This method may be used for a healthy child who is able to understand and cooperate but who exhibits defiant, aggressive, or hysterical behavior during dental treatment.
 2. Use of this method shall never obstruct the patient's airway nor be used:
 - (i) With patients whose age, disability, or emotional immaturity prevent them from being able to understand and/or cooperate;
 - (ii) When patients are under the influence of medications which prevent them from being able to understand and/or cooperate;
 - (iii) When patients have an airway obstruction or when restraint will prevent the patient from breathing; or,
 - (iv) When the parent or legal guardian has not given written informed consent for this method to be utilized.
- (b) The Physical Restraint or Medical Immobilization Method
1. This method may be used to partially or completely immobilize the patient for required diagnosis and/or treatment if the patient cannot cooperate due to lack of maturity, mental or physical handicap, failure to cooperate after other behavior managements techniques have failed and/or when the safety of the patient, dentist, or dental staff would be at risk without using protective restraint. This method should only be used to reduce or eliminate untoward movement, protect the patient and staff from injury, and to assist in the delivery of quality dental treatment. If restraint or immobilization is deemed necessary, the least restrictive technique shall be used.
 2. Use of this method shall not be used:
 - (i) With cooperative patients;
 - (ii) On patients who, due to their medical or systemic condition, cannot be immobilized safely;
 - (iii) As punishment; or,

(Rule 0460-1-.18, continued)

- (iv) Solely for the convenience of the dentist and/or dental staff.
- (5) Dental hygienists and dental assistants shall not use the methods described in paragraph (4) by themselves, but may assist the dentist as necessary.
- (6) The patient's record shall include:
 - (a) Written informed consent from parents or legal guardians;
 - (b) Type of method used;
 - (c) Reason for use of that method;
 - (d) Duration of method used; and,
 - (e) If restraint or immobilization is used, type of restraint or immobilization used.
- (7) Parents or legal guardians must be informed in advance of what treatment the patient will receive and why the use of restraints may be required. Parents or legal guardians shall be informed of the office policy concerning parental presence, the benefits and risks of parental presence, and of their opportunity to choose a different practitioner for the child if they are not comfortable with the office policy.
- (8) Parents or legal guardians may not be denied access to the patient during treatment in the dental office unless the health and safety of the patient, parent or guardian, or dental staff would be at risk. The parent or guardian shall be informed of the reason they are denied access to the patient and both the incident of the denial and the reason for the denial shall be documented in the patient's dental record.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-5-105, and 63-5-108. **Administrative History:** Original rule filed December 28, 2004; effective March 13, 2005.